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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/077,667	02/15/2002	Allon G. Engelman	47079-0127	2996
70243 7590 07/21/2008 NIXON PEABODY LLP 161 N CLARK ST. 48TH FLOOR CHICAGO, IL 60601-3213				
EXAMINER				
HSU, RYAN				
ART UNIT		PAPER NUMBER		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/077,667

Applicant(s)

ENGLMAN, ALLON G.

Examiner

RYAN HSU

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 February 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7,9-15,17,18,25-31,33,35,37-39 and 41-52 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7,9-15,17,18,25-31,33,35,37-39 and 41-52 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Final Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

In response to the amendments filed on 2/1/08, claims 1, 25, 48-49, and 51 have been amended. Claims 1-7, 9-15, 17-18, 25-31, 33, 35, 37-39, and 41-52 are pending in the current application.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-7, 9-15, 17, 25, 31, 33, 35, 37-39, 41, and 43-52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Osawa (US 6,857,958 B2) and further in view of Feinberg (US 5,851,010).

Regarding claims 1, 25, 43-44, 48 and 51, Osawa teaches a method of conducting a game on a gaming machine comprising: receiving a wager from a player to purchase a play of a basic portion of a game (*see Fig. 9 and the related description thereof*). Osawa teaches in response to

the single wager, providing the player with a play of the basic portion of the wagering game including an outcome chosen from a plurality of winning outcomes corresponding to first awards to be awarded to the player wherein the plurality of outcomes include different winning outcomes having corresponding different associated first awards (*see Figs. 1-4 and the related description thereof*). Osawa's gaming machine randomly selects at least one outcome from a plurality of outcomes for a play of the basic portion and rewards the player with the associated award corresponding to the randomly selected outcome (*see col. 11: ln 1-21*). Additionally, Osawa teaches providing an accumulation of a game-play element of the game over a plurality of plays in a series of plays of the basic portion of the wagering game (*see col. 11: ln 47-col. 12: ln 47*). Furthermore, Osawa's accumulation feature provides the player with a second award to a player in response to a predetermined criterion being met, the accumulation feature is reset to include no accumulated game-play elements at the start of a player entering into the game (*see col. 11: ln 47-col. 12: ln 47*). However Osawa is silent with respect to offering a player to purchase a series of plays of a wagering game with a single wager.

In a related gaming patent, Feinberg teaches a method of conducting a wagering game on a gaming machine, which anticipates the idea described as "block wagering" or purchasing a series of plays for a single wager. Feinberg teaches the implementation a wagering game wherein a player places a single wager to purchase a series of plays of a basic portion of a game. Feinberg's wagering game defines the series of plays as a fixed number of plays of the wagering game (*see col. 2: ln 60-col. 3: ln 35*). Whereas the single wager is being allocated to the entire series of plays is not associated with any specific one of the series of plays but is directed towards giving the player access to play the purchased series of plays (*see col. 3: ln 7-col. 4: ln*

67). Furthermore, Feinberg's system generates a randomly generated outcome of each play in the series of the plays of the basic portion of the game, at least some of the outcomes providing first awards to the player via the overall result of the series of plays (*ie: whether or not the player has generated more wins or losses*)(*see Fig. 1 and 3 and the related description thereof*). In Feinberg's teaching, the user selects a wager amount allocated to a series of plays while the single wager is not being associated with any specific one of the series of plays, the single wager being an amount made by any player such that different players pay the same amount and effectively are able to play a plurality of occurrences of the basic game for a single wager (*see col. 2: ln 62-col. 3: ln 35*). Feinberg teaches that one would be motivated to incorporate the wagering system of purchasing a series of plays for a single wager in order to encourage new players to play a wagering game more times and have the ability to assess and ascertain the maximum loss that he/she would have to risk. Therefore one would have been motivated to incorporate the wagering system of Feinberg in order to promote the play of a wagering game at the time the invention was made. Thus it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of Feinberg with that of Osawa in order to provide an alternative wagering system that allowed a player to purchase a series of games for a single wager with that of the accumulation game of Osawa.

Regarding claims 2 and 26, Osawa teaches the use of a gaming machine wherein the basic portion is selected from a group consisting of slots, poker, keno, bingo, blackjack, and roulette (*see slot machine [2] of Fig. 1 and the related description thereof*).

Regarding claims 9 and 11, Osawa teaches a method wherein each play includes at least one respective random event that is independent of other plays in the series (*see col. 8: ln 15-35, col. 8: ln 45-62*).

Regarding claims 17 and 41, Osawa teaches a method with a game machine wherein the basic portion includes a slot game having a plurality of symbol-bearing reels that, during each play in the series are spun and stopped to place symbols on the reels in visual associated with a display area (*see slot machine [2] of Fig. 1 and the related description thereof*).

Regarding claims 3-4 and 27-28, Osawa teaches a method wherein the basic portion is triggered by a special outcome in the basic portion and the accumulated element is represented by a position on a trail, ladder, or meter (*see Figs. 6-9 and the related description thereof*).

Regarding claims 5-7, 29-31, and 33, Osawa teaches a method wherein the position identifies a credit amount, a multiplier, a number of free plays of the basic portion, a bonus round, or movement to another position on the trail, the ladder or the meter. Additionally, the accumulated game-play element is a collected object and it further includes the triggering of a bonus in response to collection of a predetermined number of the object during the series of plays (*see Figs. 6-9 and the related description thereof*).

Regarding claims 10 and 12, Osawa teaches a method wherein the game includes the basic portion and a bonus feature triggered by a special outcome in the basic portion, the at least one random event being associated with the basic portion (*see Figs. 6-9 and the related description thereof*).

Regarding claims 13-15 and 37-39, Osawa teaches a method that includes redeeming prior to the completion of the series of plays, the accumulated game-play element for the second

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award in response to the predetermined criterion in the series of plays being met and after the bonus is complete, returning to the series of plays of the basic portion of the wagering game until completion and the predetermined criterion corresponds to collection of a predetermined number of the accumulated game-play element that corresponds to a certain position of the element on a trail, ladder, or meter (*see Figs. 6-9 and the related description thereof*).

Regarding claim 35, Osawa teaches a game machine wherein each play includes at least one random event that is interdependent of one or more other plays in the series (*see Figs. 6-9 and the related description thereof*).

Regarding claims 45-47, Osawa teaches a game machine wherein the accumulated game-play element is a number of consecutive winning symbol combinations achieved in the basic game, the second award being a credit amount corresponding to the number of consecutive winning symbol combinations. Additionally, the accumulated game-play element is a total value of credits being awarded as the first awards to the player for outcomes achieved in the basic game when a randomly appearing hold-bonus symbol is present during the outcomes that resulted in the first awards in the basic game, the second award being a credit amount related to the total value of credits in the basic game, the second award being a credit amount related to the total value of credits achieved when the randomly appearing hold-bonus symbol is present during the series of plays (*see Figs. 6-9 and the related description thereof*).

Regarding claims 49-50 and 52, Osawa teaches a method wherein the awarding of the second award occurs in a separate bonus game that is display to the player and the accumulation feature includes a second game-play element that can be accumulated and further including a second game play element during the series of plays of the basic portion of the wagering game

and awarding another award to the player in response to another predetermined criterion being met for the second accumulated game-play element (*see Figs. 6-9 and the related description thereof*).

Claims 18 and 42 rejected under 35 U.S.C. 103(a) as being unpatentable over Osawa and Feinberg as applied to claims above, and further in view of Duhamel (US 6,311,976).

With regard to claims 18 and 42, the teachings from Osawa and Feinberg as discussed above are incorporated herein. However, Osawa and Feinberg are silent with regard to teaching the specifics of a draw poker game implementation into the basic game. Duhamel, in an analogous gaming system, teaches, in Figs. 2-9, col. 5: ln 47-67, & col. 6: ln 1-37, a draw poker game and poker hand rankings table. One would have been motivated to combine the teachings of Duhamel with the teachings of Feinberg and Osawa in order to teach the specific implementation of a draw poker game into a basic portion of a game machine in order to diversify the type of games offered and increase the overall excitement of a game machine. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of Duhamel with Feinberg and Osawa in order to create a more exciting experience for the player of the game machine.

Response to Arguments

Applicant's arguments filed 2/1/08 have been fully considered but they are not persuasive. Examiner's responses have been separated into paragraphs indicating the response made to the specific sections detailed in the applicant's reply titled "Amendment and Response to the Office Action dated October 16, 2007".

I. Applicant argues that Feinberg Teaches a "relatively simple gaming format". The Examiner does not see the pertinence of the argument with the simplicity of Feinberg with respect to the instant claimed invention. The applicant argues that Feinberg is directed towards a simple table game, however the claimed invention only asks for a basic portion of a game and a randomly generated outcome. Feinberg meets the criteria set forth even with its relatively simple game format to meet this condition. With respect to the arguments of the applicant's "fixed cost" argument found on pg. 11-12 of the "Amendment and Response to Office Dated October 16, 2007" filed by the applicant on 2/1/08 it is not clear how this is any different than a single wager from a player to purchase a series of plays of the basic portion of the game. Feinberg is used to teach a type of wagering bet found in the prior art of record.

II. The limitations indicated by the applicant have been addressed above as they are directed towards subject matter that was amended in the claims.

III. Feinberg teaches away from the claimed invention.

The examiner respectfully disagrees. As has already been addressed with respect to the arguments of section "I", the simplicity of Feinberg does not prevent it from teaching the wagering system in which it is being used in the combination of Osawa and Feinberg. The arguments above are hereby incorporated with respect to the arguments made for section III.

IV-VI Feinberg teaches away from the combination with Osawa.

Examiner respectfully disagrees. Both patents are directed towards games of chance. Although the basic game with respect to one another are different it does not prevent each one from teaching wagering and game practices of in the gaming arts. Osawa teaches a slot machine with an accumulation feature as required by the applicant's claims. Feinberg teaches a different

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type of game of chance but teaches a wagering system that allows for more players to use a wagering game and make the machine easier to use and fair for all players. The system that Feinberg teaches is for a player to purchase a series of plays for one wager. By incorporating the feature taught in Feinberg it would not have detracted from the game taught in Osawa since the gaming system already had an accumulation feature of the game that required a series of plays in order to allow a player to win. As a result Feinberg simply teaches an alternative that is well known in the art of collecting the player's money up front instead of each individual game thereby allowing the player to participate in a predetermined number of games rather than paying for one game at a time.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RYAN HSU whose telephone number is (571)272-7148. The examiner can normally be reached on 9 :00-17:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert E. Pezzuto can be reached on (571)272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Robert E Pezzuto/
Supervisory Patent Examiner, Art Unit 3714

RH
July 14, 2008